

**IOWA WORKFORCE DEVELOPMENT
UNEMPLOYMENT INSURANCE APPEALS BUREAU**

GABRIEL Y MANYIEL
Claimant

APPEAL 19A-UI-04934-S1-T

**ADMINISTRATIVE LAW JUDGE
DECISION**

WELLS ENTERPRISES INC
Employer

**OC: 05/26/19
Claimant: Appellant (2)**

Section 96.5-1 - Voluntary Quit
Section 96.5-2-a – Discharge for Misconduct

STATEMENT OF THE CASE:

Gabriel Manyiel (claimant) appealed a representative's June 13, 2019, decision (reference 01) that concluded he was not eligible to receive unemployment insurance benefits because he had voluntarily quit employment with Wells Enterprises (employer). After hearing notices were mailed to the parties' last-known addresses of record, a telephone hearing was held on July 15, 2019. The claimant participated personally. The employer was represented by Peggy Leight, Hearings Representative, and participated by Andrea Rozell, Associate Business Partner.

ISSUE:

The issue is whether the claimant was separated from employment for any disqualifying reason.

FINDINGS OF FACT:

The administrative law judge, having heard the testimony and considered all of the evidence in the record, finds that: The claimant was hired on September 17, 2018, as a full-time category A hallway worker. He signed for receipt of the employer's handbook when he was hired. The claimant complained to his supervisor repeatedly about harassment from his trainers and co-workers.

On February 7, 2019, the claimant filed a complaint with human resources about five male co-workers who asked him sexual orientation questions and called him "nasty". They thought he should work in the dumpster area where the employer placed most African workers. The claimant felt bullied by one trainer who told the claimant he did not know anything, including his name. The employer performed an investigation but found no evidence of wrong doing. The comments continued and the claimant filed a complaint with the Iowa Civil Rights Commission (ICRC).

The supervisor changed the claimant's work schedule, even though the claimant protested. The claimant worked for a short time and complained again to the supervisor about the schedule. His previous work hours were not reinstated.

On March 7, 2019, the employer questioned the claimant's co-workers as part of the investigation into the ICRC complaint. They gossiped about the claimant within his hearing and questioned him about why he filed the ICRC complaint. The harassment and bullying had not stopped and the claimant felt stressed and threatened. He quit work on March 7, 2019. Continued work was available for the claimant had he not separated from employment.

REASONING AND CONCLUSIONS OF LAW:

For the following reasons the administrative law judge concludes the claimant voluntarily quit work with good cause attributable to the employer.

Iowa Code section 96.5(1) provides:

An individual shall be disqualified for benefits, regardless of the source of the individual's wage credits:

1. Voluntary quitting. If the individual has left work voluntarily without good cause attributable to the individual's employer, if so found by the department.

Iowa Admin. Code r. 871-24.26(4) provides:

Voluntary quit with good cause attributable to the employer and separations not considered to be voluntary quits. The following are reasons for a claimant leaving employment with good cause attributable to the employer:

(4) The claimant left due to intolerable or detrimental working conditions.

The law presumes a claimant has left employment with good cause when he quits because of intolerable or detrimental working conditions. 871 IAC 24.26(4). It would be reasonable for the employee to inform the employer about the conditions the employee believes are intolerable or detrimental and to have the employee notify the employer that he intends to quit employment unless the conditions are corrected. This would allow the employer a chance to correct those conditions before a quit would occur. However, the Iowa Supreme Court has stated that a notice of intent to quit is not required when the employee quits due to intolerable or detrimental working conditions. *Hy-vee, Inc. v. Employment Appeal Board and Diyonda L. Avant*, (No. 86/04-0762) (Iowa Sup. Ct. November 18, 2005). The claimant notified the employer of the conditions repeatedly but the employer did not safeguard the claimant. The claimant subsequently quit due to those conditions. The claimant is eligible to receive unemployment insurance benefits, provided he meets all the qualifications.

DECISION:

The representative's June 13, 2019, decision (reference 01) is reversed. The claimant voluntarily quit with good cause attributable to the employer. Benefits are allowed, provided claimant is otherwise eligible.

Beth A. Scheetz
Administrative Law Judge

Decision Dated and Mailed

bas/rvs